

**CITY OF FORT WORTH, TEXAS
ETHICS REVIEW COMMITTEE
CALLED – SPECIAL SESSION
MINUTES
APRIL 29, 2011**

Present:

Robert E. Aldrich, Jr., Chairman
Francisco Hernandez (arrived at 2:14 p.m.)
Dr. Evan Lenow
Norma Roby

City staff:

Sarah Fullenwider, City Attorney
Peter Vaky, Deputy City Attorney
Marty Hendrix, City Secretary

Call to Order

(Agenda Item 1)

With a quorum of the Ethics Review Committee present, Chairman Aldrich called the meeting to order at 2:11 p.m. on Friday, April 29, 2011, with Committee Member Hernandez temporarily absent, in the Pre-Council Chamber, Fort Worth Municipal Building, 1000 Throckmorton, Fort Worth, Texas.

**Acknowledge Receipt of and Direction to
File Transcript of December 8, 2010,
Hearing**

(Agenda Item 2)

Chairman Aldrich polled each of the members to acknowledge their receipt of the transcript of the December 8, 2010, hearing. All members present acknowledged receipt of the transcript. Chairman Aldrich directed that the record reflect that the transcript had been received and that the transcript be filed of record.

**Discussion and Review of Proposed
Amendments to the City's Ethics Code**

(Agenda Item 3)

Sarah Fullenwider, City Attorney, spoke before the members of the Ethics Review Committee on their challenge of redrafting the City's Ethics Code. She explained a lot of work had gone into review of the existing Code with the goal in mind to place the City's Ethics Code in simple language that could be easily understood by the Ethics Review Committee, the City Council, attorneys and the citizens. She added everyone needed to understand what an ethics violation was per the code, what happened when an ethics violation was filed and what the next steps were

**CITY OF FORT WORTH, TEXAS
ETHICS REVIEW COMMITTEE
CALLED – SPECIAL SESSION
MINUTES**

APRIL 29, 2011

Page 2

**Discussion and Review of Proposed
Amendments to the City's Ethics Code (cont'd)**

(Agenda Item 3)

in the process. She pointed out what had been seen with the last flurry of complaints that had been filed. She explained there were some complications with the current Ethics Code, even in the process, that made it very difficult for the citizens to know whether a primarily hearing was being held, a final hearing was being held, what type of evidence needed to be presented and so forth. She explained those were the types of issues that the City staff wanted to make sure were clean in the code redrafting.

City Attorney Fullenwider stated that their approach had been to begin with the role of the Ethics Review Committee first and to get the procedural elements out of the way, and then work into what were actual ethics violations. She pointed out that Deputy City Attorney Peter Vaky had provided to the committee a draft of the revised code in two versions, one with red-lining showing the wording changes and the other version was the code with the changes in place. She advised that Deputy City Attorney Vaky would be taking the committee through this process.

Deputy City Attorney Vaky spoke before the committee members on his redrafting work and advised that in certain cases he had made recommendations on how certain provisions should be revised and new changes be adopted and implemented. He stated in other cases, he had taken a stark example from another city or language that left the provision in tact, with a notation to obtain input and feedback from the committee. He stated that in certain situations he had taken a shot in the dark and reflected a provision that would not necessarily earn the committee's endorsement; however, he felt it was interesting enough to merit discussion.

(Committee Member Francisco Hernandez arrived at the meeting.)

Deputy City Attorney Vaky reiterated what City Attorney Fullenwider had stated that they had begun the comprehensive review of the Ethics Code by setting aside the actual Code of Ethics itself and focusing on the actual role of the Ethics Review Committee. He pointed out that the recommendation to consider first would be to call the entity, the Ethics Review Commission in accordance with the Sunset Advisory rules that were handed down to the City Council several years ago. He added that the other issue was to address the process since the committee members were newly appointed and familiar with the process for the last several cases that they had heard.

With a PowerPoint presentation, Deputy City Attorney Vaky began his review and started with a new section that had been created as follows:

**CITY OF FORT WORTH, TEXAS
ETHICS REVIEW COMMITTEE
CALLED – SPECIAL SESSION
MINUTES**

APRIL 29, 2011

Page 3

**Discussion and Review of Proposed
Amendments to the City's Ethics Code (cont'd)**

(Agenda Item 3)

New Section 2-239.1 Effect of City Attorney Opinion. The wording of this section stated:

“Notwithstanding anything to the contrary in this article, a person does not violate any provision of this Division if that person acted or failed to take an action in reliance, either directly or indirectly, upon an opinion of the city attorney.”

Deputy City Attorney Vaky reviewed this new section and referenced the lengthy footnote of information that he had obtained from the cities of Dallas, San Antonio, Corpus Christi, Arlington, Austin and El Paso. He explained that it was addressed differently among those cities and reviewed those differences with the committee members.

Deputy City Attorney Vaky referenced the City's Charter and explained that it identified the City Attorney as the City's chief legal advisor for the City Council, all City employees and board and commission members. He stated that it had been a little awkward having another body that might disagree with the City Attorney. He stated he felt, however, the question was should an individual that had done everything an individual was supposed to do, such as consulted with the City Attorney, asked for the advise and followed that advice be subject to a violation. Deputy City Attorney Vaky indicated that the recommendation that was presented to the committee was that the person should not be in violation of the Ethics Code.

Chairman Aldrich advised of his opinions when he read the draft document and of some additional research that he had conducted in Texas Statutes. Chairman Aldrich stated that he would not recommend that they go with oral advice that had been given as this would just invite problems. He added he thought that it was a good idea to go with a written opinion, unless that process got carried away. He reiterated that he did not feel oral advice should be a defense because it could lead to “who said what”.

There was further discussion on whether the City Attorney issued written opinions. Deputy City Attorney Vaky indicated that the City Attorney did issue written opinions. City Attorney Fullenwider interjected that it was not all of the time. She clarified that opinions were often requested right before a Council meeting was getting ready to start. She added a Council Member may approach making a request as to whether they should be voting on a particular issue. Committee Member Hernandez suggested that perhaps an e-mail would suffice. City

**CITY OF FORT WORTH, TEXAS
ETHICS REVIEW COMMITTEE
CALLED – SPECIAL SESSION
MINUTES**

APRIL 29, 2011

Page 4

**Discussion and Review of Proposed
Amendments to the City's Ethics Code (cont'd)**

(Agenda Item 3)

Attorney Fullenwider provided further explanation that in certain situations; time just does not permit the opportunity to provide for a written opinion. She added that the City Attorney's Office did issue written opinions on the very complicated issues. She stated that she would be a little concerned if a written opinion was required in every case. She explained that in certain situations, it was just attorney/client meetings. Chairman Aldridge indicated that in those circumstances, it was a more troublesome situation for the City Attorney or the City Attorney's Office. Chairman Aldrich indicated that the City Attorney's verbal opinion could be restated for the record in the Council meeting which would then be reflected in the written record. Chairman Aldrich stated that as long as somebody could not come back and say: Well, I asked him and he said or she said! Committee Member Hernandez stated that the opinion should be in writing or read into the record of the meeting before the vote was taken. Chairman Aldrich indicated that was what he was stating. Chairman Aldrich indicated that the City Attorney's Office could handle it in anyway that they wanted as long as there was a written document of here was my opinion and here was the question that was proposed to me by Council Member Smith and here was my response to Council Member Smith. City Attorney Fullenwider also suggested an e-mail to the Council Member. Chairman Aldrich indicated that was acceptable as long as the opinion was memorized.

There was further deliberation that the City Council Members needed to be made aware that if they wanted to rely on an opinion from the City Attorney's Office, they needed to contact the City Attorney's Office early on so that a written response could be prepared. Deputy City Attorney Vaky indicated that this made sense to him. He added that one thing that he noted in the City of Dallas' ordinance was that the complaint was not accepted if the conduct that was alleged was the subject matter of a pending City Attorney opinion. He added he felt this was taking into account the type of situation that they had been discussing earlier here where the City Council Member had obtained a verbal opinion, took the action and then was requesting the opinion in writing and it had not been produced into the instrument yet.

Chairman Aldrich indicated that for that situation to come up, someone had to take action that someone else did not like and they would have had to ask prior to taking the action. . There was also deliberation on the issue of "ex post facto" and someone asking for an opinion, taking action and now there was a problem. He suggested staying away from that particular situation.

Committee Member Hernandez questioned the past complaints that had been filed and whether the City Attorney's advice was oral or written. Deputy City Attorney Vaky indicated that the recommendations on the members of the Air Quality Task Force were verbal. He indicated that

**CITY OF FORT WORTH, TEXAS
ETHICS REVIEW COMMITTEE
CALLED – SPECIAL SESSION
MINUTES**

APRIL 29, 2011

Page 5

**Discussion and Review of Proposed
Amendments to the City's Ethics Code (cont'd)**

(Agenda Item 3)

he was not aware of an opinion for Council Members Scarth and Jordan on the XTO and Chesapeake matters. Committee Member Hernandez interjected that he was surprised that no one ever challenged whether the opinion was even given. City Attorney Fullenwider stated City Attorney Yett had indicated during the hearing that he had given them an oral opinion on the subject matter.

Deputy City Attorney Vaky indicated that in that case, it could go to the weight of the evidence as the committee pondered the question; however, it would not affect the outcome. He pointed out that it may have been obvious to the committee that he had struggled with this determination because so much of the business ended up being handled on the “fly” so to speak. He stated that he had crafted a pre-trial hearing process so that a person could ferret out whether a City Attorney's opinion was relied on either entirely or partially. He added that having the written evidence certainly simplified and crystallized that issue. Chairman Aldrich indicated that the City Attorney had to determine what road that she/he wanted to go down.

Committee Member Lenow requested clarification of what would happen in the likely rare instance, but possible, that the City Attorney gave an incorrect opinion and then the City Attorney even realized that the opinion that was given was wrong. He asked how would that come into play.

City Attorney Fullenwider explained to the committee members the expressed expectations of the City Council regarding the City Attorney as the general counsel for the City Council. She explained that they have the right to come and rely on the City Attorney's opinion. She added that they have also stated that if the City Attorney was wrong then they should fire him/her. She added of particular importance to the City Council was that they were receiving good advice and that they could rely on that advice and that they were not going out and violating the Ethics Code.

Committee Member Hernandez indicated that his fear was that someone would file a grievance against the attorneys. There was further deliberation on this issue. Deputy City Attorney Vaky stated that it was a part and parcel of their job. He referenced an old case whereby a Council Member had requested an opinion and followed the advice of the City Attorneys. The Ethics Commission found that the action of the City Council Member was incorrect and sanctioned that City Council Member. Deputy City Attorney Vaky indicated that his point was that the City Attorney's Office had the heat on them no matter what the situation. He added that he just wanted to let the committee members know of the various dimensions that the City Attorney's

**CITY OF FORT WORTH, TEXAS
ETHICS REVIEW COMMITTEE
CALLED – SPECIAL SESSION
MINUTES**

APRIL 29, 2011

Page 6

**Discussion and Review of Proposed
Amendments to the City's Ethics Code (cont'd)**

(Agenda Item 3)

Office faced. There was also discussion on what the Penal Code provided for on the advice of counsel. Deputy City Attorney Vaky clarified a culpable mental state had to be proven there and he would double check the code; however the attorney was not knowing violating those provisions because the person went to their attorney and relied on their advice. There was further discussion about researching that portion of the code.

There was further deliberation on the issue of the sanction on a Council Member's record. Committee Member Lenow questioned if there could be a way to qualify the sanction or direct the sanction to the City Attorney's Office in the situation of where the opinion was wrong. The Committee Members discussed the possibility of when a ruling came from the Ethics Commission that the City Attorney's opinion was incorrect or inaccurate then the next step might be that the opinion needed to be reviewed again and perhaps rewritten. Chairman Aldrich indicated that in his opinion this particular situation might occur once in a "blue moon"; however, the sanction would not fall upon the City employee or City Council Member that took the advice and their action(s) were based upon the advice. He stated particularly if it was in writing. Committee Member Hernandez suggested that action should be taken to rectify situation and no official sanction should be issued. Chairman Aldrich also pointed out that this would also eliminate the perception that the City Attorney's office was sanctioning all types of illegal conduct. Chairman Aldrich reiterated his support for written opinions.

The committee discussed the fact that one of the members on the Ethics Review Committee had to be an attorney, thus there would be the ability to have another attorney's opinion on a situation.

Deputy City Attorney Vaky indicated that this was the type of discussions that the City staff wanted to hear from the committee.

Deputy City Attorney Vaky continued his presentation and indicated that it was not his intention to go through the ordinance line by line but just to hit certain sections of the ordinance. He then referenced the next section for review, which was Section 2-240(b). He presented a slide with the following information:

New Section 2-240(b)

- Eligibility to serve on Ethics Review Commission
 - Recommended approach similar to El Paso

**CITY OF FORT WORTH, TEXAS
ETHICS REVIEW COMMITTEE
CALLED – SPECIAL SESSION
MINUTES
APRIL 29, 2011
Page 7**

**Discussion and Review of Proposed
Amendments to the City's Ethics Code (cont'd)**

(Agenda Item 3)

- Dallas and San Antonio also prohibit members of other boards and commissions from serving

Deputy City Attorney Vaky pointed out that the contents of that section were brought up at one of the recent appeal hearings regarding the qualifications of the individuals appointed to the committee. He added of particular interest was the provision that stated “no member shall hold any city elected or appointed office or be a candidate for any such office.” He stated that the current code was confusing as to what was considered a “city office” because in the context of how the ordinance was written, the city office holders were those employees that were appointed by the City Council, i.e., the City Manager, City Attorney, City Secretary, City Auditor. He stated then else where in the City Code it defined “city officer” as any member of a board or commission, among other things. Deputy City Attorney Vaky stated that since that was confusing, he felt that there needed to be clearer language and to clearly state who was eligible to serve on the commission and who was not. He referenced what had been drafted in the proposed changes. He indicated that there would be four (4) types of persons that would **not** be eligible to serve as follows:

1. A member of the City Council or the spouse or domestic partner of a member of the City Council;
2. A city employee or the spouse or domestic partner of a city employee;
3. An elected public official; or
4. A candidate for elected public office.

Deputy City Attorney Vaky indicated that the question here on this recommendation was what was seen in other cities which were in certain other cities, members of other city boards and commissions were also ineligible to serve on the commission. He added that he could provide arguments for both sides and he just wanted to open it up for the committee members' input. He stated that on one hand it was often difficult to find people that wanted to serve the City. He pointed out the number of boards, commissions and committees that the City currently had and the range in the membership on those entities. He indicated if they were eliminated, then a large part of the volunteer population would be cut out of the process. He stated that on the other hand, this particular commission would be the review commission for the actions of the members of the City's boards, commissions and committees. Deputy City Attorney Vaky indicated that the City staff was interested to hear what the committee members felt about this provision.

**CITY OF FORT WORTH, TEXAS
ETHICS REVIEW COMMITTEE
CALLED – SPECIAL SESSION
MINUTES**

APRIL 29, 2011

Page 8

**Discussion and Review of Proposed
Amendments to the City's Ethics Code (cont'd)**

(Agenda Item 3)

City Attorney Fullenwider provided a scenario of issues that could occur if a person served on a City board, commission or committee and also served on the Ethics Commission as to favoritism, or the ill feeling of not wanting to rule against a fellow member of their board or commission and the ability to recuse from the deliberation on another board member. Committee Member Roby pointed out that it could affect the ability to have a quorum of the commission. Deputy City Attorney Vaky pointed out that the City Council should not load up the Ethics Commission with members serving on other boards, commissions or committees. Chairman Aldrich provided information on a similar situation that occurred with the Tarrant County Bar Association and that the consensus was that the membership should be tightened up. He stated that in this case, he felt it should be kept tight particularly since there were only five (5) members on the commission and so that there would be no added worry about the membership.

There was further discussion by the committee members on Chairman Aldrich's comments and that there should be an elimination of conflicts of interest for the members serving. City Attorney Fullenwider clarified that their input meant the elimination of appointing members that served on other city boards, commissions and committees. In further deliberation, Committee Member Lenow requested clarification of an "elected public official." Deputy City Attorney Vaky indicated that it was any elected official to any public office, i.e., city, county, state, federal. He then asked the reason that spouses had been eliminated for the City Council Members and city employees but not for the other elected public officials. Deputy City Attorney Vaky indicated that this decision was not intentional. He stated that he had just looked other at other cities' codes and this was the way it was worded so he had just used similar wording. Committee Member Lenow indicated that he was fine with it as it was presented, he just needed a clarification.

Committee Member Hernandez suggested that the wording be added that there would be no cross membership for boards, commissions and committees that the City of Fort Worth oversaw. He gave as an example the D/FW Airport Board and that the City did not have jurisdiction over that particular board. Deputy City Attorney Vaky indicated that it was considered a joint agency board. He added that this issue had been addressed in a prior City Attorney opinion and it was deemed to not fit within the perimeters of any City board or commission. Chairman Aldrich requested clarification as to whether it was the only board that would not come under the auspices of the Ethics Commission. Deputy City Attorney Vaky indicated that there were certain other advisory boards and task forces. He added that this was an interesting issue because in certain cases the task force members were not subject to the same standards and requirements as

**CITY OF FORT WORTH, TEXAS
ETHICS REVIEW COMMITTEE
CALLED – SPECIAL SESSION
MINUTES**

APRIL 29, 2011

Page 9

**Discussion and Review of Proposed
Amendments to the City's Ethics Code (cont'd)**

(Agenda Item 3)

a “quasi judicial” board; however, in other situations such as acceptance of gifts, they were under those City rules. He added that he felt it was going to be a very broad exclusion. There was further deliberation on the D/FW Airport Board and whether it should be excluded as well. Deputy City Attorney Vaky indicated that the City wanted to be very clear in this situation so that there was not misunderstanding. Committee Member Roby then requested clarification about the Promotion and Development Board. Deputy City Attorney Vaky indicated that it was a non-profit organization and it would not fall within the exclusion list. The Committee had further discussion on the D/FW Airport Board and the prior City Attorney’s opinion on that board.

Committee Member Lenow requested to review paragraph (d) of the revised ordinance as follows:

(d) Vacancies. A position on the commission shall be considered vacant if a member resigns, is removed in accordance with Section 2-240(c) or any other provision of the city code, or no longer meets the eligibility requirement set forth in Section 2-240(b). All vacancies shall be filed for the remainder of the unexpired terms. A member shall hold office until his or her successor has been appointed by the city council and shall continue to hold office after his or her successor has been appointed by the city council for the limited purpose of the disposition of all complaints file during that member’s term.

Committee Member Lenow pointed out he felt there was a contradiction in the wording of that section, particularly, the last sentences which indicated a person would continue to hold office even though they had resigned, been removed or were no longer eligible to serve. Committee Member Lenow explained that he felt it should apply to someone who’s term had expired rather than resigned, been removed or was no longer eligible to serve. Deputy City Attorney Vaky stated that this was an interesting issue and it was old language from the code and his gut feeling was that it was derived from a provision in the Texas Constitution that stated that a public official continued to hold office even after they have resigned or their term had expired. City Attorney Fullenwider pointed out this issue of the person being removed for cause and yet they would continue to serve as problematic. Committee Member Lenow pointed out that it could be a situation of a person moving to Burleson and then they would no longer be eligible to serve as they had moved out of the city limits of Fort Worth. He stated that this could be for two (2) days or two (2) years. Deputy City Attorney Vaky indicated that he had no problem taking out that wording. Chairman Aldrich asked if that provision had been in other Ethics Codes that had

**CITY OF FORT WORTH, TEXAS
ETHICS REVIEW COMMITTEE
CALLED – SPECIAL SESSION
MINUTES**

APRIL 29, 2011

Page 10

**Discussion and Review of Proposed
Amendments to the City's Ethics Code (cont'd)**

(Agenda Item 3)

reviewed. He indicated that he did not recall; however, he would go back and look at that issue. Committee Member Lenow suggested that perhaps the wording could be changed to reflect: "A member's whose term has expired shall hold office until his or her successor has been appointed by the City Council."

He stated this could be applied appropriately. He added thus if a person resigned, was removed for cause or was no longer eligible to serve then the person would no longer hold office. He stated that if the term had expired and there was a reason for this person to stay on, such as completion of a hearing, then the person would stay on until replaced.

The other committee members concurred with this change. Chairman Aldrich indicated he felt it was a cleaner way to handle this issue.

Deputy City Attorney Vaky continued his review with another section of the ordinance, which was Section 2-247(a), which was at the top of page 6 of the red-lined version. He presented the following slide of information:

Section 2-247(a)

- Should non-residents be permitted to file complaints?
 - Arlington limits
 - Dallas limits, but includes "persons doing or attempting to do business with" the city

Deputy City Attorney Vaky explained that the City of Arlington's Code limited complainants to residents of that city. He stated that Dallas limited the complainants to residents of that city and persons doing or attempting to do business with that city. He added that the last portion was a little different so he added it to the foot notes as a matter of information to the committee members. He indicated that he did not have an opinion on this particular issue. He stated that the argument to limit it to residents was that this was strictly a local code for city residents who were serving in some capacity and there were costs associated with having that review committee, primarily the need for outside legal representation, so that it ought to be limited to complaints filed by residents. He added on the other hand, obviously if there was wrong doing and the person happened to live across the border, was that something that should be brought to the public's attention and again, he did not have a stand on it, one way or another. He requested input from the committee members.

**CITY OF FORT WORTH, TEXAS
ETHICS REVIEW COMMITTEE
CALLED – SPECIAL SESSION
MINUTES**

APRIL 29, 2011

Page 11

**Discussion and Review of Proposed
Amendments to the City's Ethics Code (cont'd)**

(Agenda Item 3)

Committee Member Hernandez brought up the issue of a businessman that lived in Keller. There was further discussion by the committee members on this type of situation. Deputy City Attorney Vaky reviewed with the committee that the current requirement was that the complainant must be a registered voter, if eligible, in the jurisdiction where he resided. Deputy City Attorney Vaky pointed out that to serve on the committee a person had to be a resident of Fort Worth, but not a registered voter.

Chairman Aldrich asked if this had been a problem in the past. Deputy City Attorney Vaky indicated to his knowledge, it had never come up. City Attorney Fullenwider interjected that there were very active people that lived in the City of Fort Worth's extra territorial jurisdiction and that they attended the City Council meetings to address taxes, annexations, etc. There was further discussion on what these individuals would submit as their complaints. City Attorney Fullenwider indicated that it could be related to gas drilling and who the City Council placed on a task force or a board or commission. Committee Member Roby brought up the issue of what resource people would have if they could not come before the Ethics Commission. There was further deliberation on the other recourses a person would have with the City if they did not reside within the city limits and pay taxes.

Committee Member Lenow indicated that initially he felt it should just be opened up to anyone; however, after the discussion, he stated he felt it should be closed off to just city residents. Deputy City Attorney Vaky suggested that perhaps it could be residents of Fort Worth or real property owners, which had been suggested by City Attorney Fullenwider earlier in the discussions. There was further discussion on including people that paid personal property taxes that were collected by the City. Deputy City Attorney Vaky pointed out that there were companies that paid personal property taxes that were located in other states. In further discussions, Committee Member Lenow advised if the personal property tax issue was included; it would certainly open more doors. He added, however, part of the procedure that the committee would be looking at later would be the fact that the complainant must appear in person in order for their complaint to be heard. He provided an example of an out-of-state individual that paid just several hundred dollars in personal property tax wanting to take the time and money to appear before the Commission in order to see if an individual did commit an ethics violation and receive a letter of reprimand. He added that at least the City would not look like that they were trying to shun everyone who might want to file a complaint. There was further deliberation on whether the wording should state resident or real or personal property owner or "taxable" property owner. City Attorney Vaky indicated that he would take the feed back and go back and wordsmith the changes.

**CITY OF FORT WORTH, TEXAS
ETHICS REVIEW COMMITTEE
CALLED – SPECIAL SESSION
MINUTES
APRIL 29, 2011
Page 12**

**Discussion and Review of Proposed
Amendments to the City's Ethics Code (cont'd)**

(Agenda Item 3)

Deputy City Attorney Vaky moved to the next issue, which was the role of the City Secretary. He provided the following slide of information:

Role of the City Secretary

- § 2-247(a) specifies what information must be included in complaint – modeled after requirements of Texas Ethics Commission
- City Secretary would have authority to not accept complaint that does not include the basic information required
- Eliminates need for the Ethics Review Committee to address in a preliminary hearing

He indicated that the proposed wording would be a big change from what currently existed. He pointed out what the current code stipulated regarding the preliminary hearing and whether the complaint was defective. He stated that what he noted in the Texas Ethics Commission Rules was that there was very specific and objective information that had to be in a complaint. He stated that the Executive Director of the Texas Ethics Commission had the authority to either certify the complaint or not. He stated that the issue was not whether the conduct that was alleged was a violation of the code, which would be determined in another level of analysis, it was whether there was conduct alleged in the complaint so that the commission could have something to do or review when it came before the commission. He added in Section 2-247 (a), and stated it specified exactly what needed to be in the complaint for it to be a valid complaint and provided that the City Secretary would certify that all of the information was there. He added that the City Secretary would provide the certification and forward it to the commission and if not, it would be returned to the person filing the complaint and that person could complete it and refile it.

Deputy City Attorney Vaky indicated that one of the things that he was trying to stress throughout the whole process was the issue that the preliminary hearings were very time consuming and not much was accomplished at those hearings. He added that with the proposed changes there would be just one hearing to take care of all business. He indicated to the committee that he wanted their feedback on that process.

City Attorney Fullenwider explained that the problem with the preliminary hearings have been that the complainant did not know what to do, what process to follow, if they needed to bring all of their witnesses, etc. She added that the thought process had been that with just one hearing,

**CITY OF FORT WORTH, TEXAS
ETHICS REVIEW COMMITTEE
CALLED – SPECIAL SESSION
MINUTES**

APRIL 29, 2011

Page 13

**Discussion and Review of Proposed
Amendments to the City's Ethics Code (cont'd)**

(Agenda Item 3)

the complainant did not need to determine if it was the preliminary hearing, final hearing or just what hearing.

Committee Member Hernandez indicated that he felt the preliminary hearing had worked at the Texas Ethic Commission because half of the time, people just wanted to be heard. He added that if a decision was determined at the preliminary hearing even if it was against the complainant, then it was just left with that. He stated that it was less than 20% of the complaints that they ever had formal hearings where the complainant brought lawyers and had witnesses, with evidence, etc. He stated that only the really serious matters rose to the level of the formal hearing. He added that with the limited amount of complains received by the City, he was not sure that the City needed to have the various levels of hearings.

Committee Member Lenow requested clarification as to whether all of the evidence would be provided with the formal complaint to the extent possible rather than the complainant indicating at the hearing that they would provide additional evidence at a later date. Deputy City Attorney Vaky indicated that a person would not have to divulge all of their evidence; however, the complaint needed to state the conduct that the person was complaining against so that the commission had some basis when the commission did meet to begin their deliberations. He added there would be a whole set of review criteria before the commission had their evidentiary hearing and the opportunity to see whether that conduct was substantial enough to merit a offense under the Ethics Code. He added that there was no point to him to gather the commission together to review a complaint that did not say anything. Committee Member Hernandez indicated this had happened in the past as to the complaint not being clear on what occurred to violate the provisions of the Ethics Code. Deputy City Attorney Vaky indicated that the revision would require the complaint to state the provisions of the code of that been violated.

In further discussion, Chairman Aldrich requested clarification as to whether the Texas Ethic Code provided for a penalty if a person just made up a supposed violation to the code and then the elected official could go back after the person filing the complaint. Deputy City Attorney Vaky stated that a person could bring charges of perjury. He stated that the City was going to require that the complaint be sworn to. He stated that the Texas Ethics Code also provided for financial sanctions against someone who filed a frivolous complaint.

Deputy City Attorney Vaky polled the committee members and they agreed with the recommendation.

**CITY OF FORT WORTH, TEXAS
ETHICS REVIEW COMMITTEE
CALLED – SPECIAL SESSION
MINUTES
APRIL 29, 2011
Page 14**

**Discussion and Review of Proposed
Amendments to the City's Ethics Code (cont'd)**

(Agenda Item 3)

Deputy City Attorney Vaky went to the next section and showed the following slide information:

Legal Representation

- New § 2-248(a) provides that the City Attorney may represent the person complained against if outside counsel is not retained
- New § 2-248(b) provides that outside counsel will be retained for the Commission if the City Attorney is involved in a case
 - No City Attorney representation of Commission otherwise?
 - Conflicts if City Attorney has greater representation of Commission?

Deputy City Attorney Vaky explained that he was having concerns about who was the client for the City Attorney. He stated almost every other city's code indicated that the City Attorney provided legal counsel to the Ethics Review Commission. He stated that in other situations, the City Attorney was authorized to represent the person complained against. He stated he began to see all types of situations where there could be conflicts. He added he felt the nature of the City Attorney's Office, as he had stated earlier, was to provide legal counsel to City Council Members, board and commission members and employees. He stated that to him it was just a natural fit that the City Attorney's first duty ought to be to represent the person that was complained against because when a City Attorney was representing the Ethics Review Commission at what point did the City Attorney's duty or obligations under the City Charter to provide legal counsel to those individuals cease.

City Attorney Fullenwider explained that it was trickier than with other boards and commissions where the Assistant City Attorneys represented the Zoning Commission or the Board of Adjustment and continued to represent them until the City decided to hire an outside legal counsel. She added in this case, like Deputy City Attorney Vaky stated, the big question would be when would the City Attorney stop representing the City Council Members and start representing the Ethics Review Commission.

Deputy City Attorney Vaky pointed out that he had provided the following wording in Section 2-248:

“(a) Counsel for the Person Complained Against. The city attorney shall be authorized to represent the person complained against unless the city attorney recommends or the person complained against requests that the city council hire

**CITY OF FORT WORTH, TEXAS
ETHICS REVIEW COMMITTEE
CALLED – SPECIAL SESSION
MINUTES
APRIL 29, 2011
Page 15**

**Discussion and Review of Proposed
Amendments to the City's Ethics Code (cont'd)**

(Agenda Item 3)

independent outside legal counsel to represent the person complained against. Fee arrangements with independent outside legal counsel for a person against whom a complaint has been filed must be approved by the city council.”

He pointed out that this was similar to what currently existed in the code. He added that due the fact that the City Attorney would be representing the person complained against; this would drive the need for the Ethics Review Commission to obtain their own outside legal counsel. He explained that there could be situations where the City Attorney might not be heavily involved in the complaint, but only to review the complaint as to its validity as an ethical violation and then both the person complained against and the Ethics Review Commission would be hiring outside counsel to represent them. Deputy City Attorney Vaky indicated that this had been difficult to determine and he was interested in what the committee members had to state about it.

There was deliberation about the written opinion of the City Attorney being followed by the person complained against and the fact that the City Attorney was the general counsel to the City Council Members and that this function could not stop. Chairman Aldrich indicated that if the Ethics Review Commission needed outside counsel, then they would need outside counsel. Deputy City Attorney Vaky indicated that this appeared to be the route taken; however, it had not been clear.

There was further deliberation on the wording proposed for paragraph (b) of Section 2-248:“In addition, if requested by the commission, the council may provide outside legal counsel selected by the commission. Fee arrangements with any independent legal counsel for the commission must be approved by the city council.”

Deputy City Attorney Vaky provided an explanation of that paragraph. He stated that the City Council would be obligated to provide outside legal counsel if the City Attorney was representing a person against who a complaint had been filed; the city attorney had provided written notice in accordance with Section 2-249(c) that the City Attorney believed that the conduct of the person complained against was undertaken in reasonable reliance upon an opinion rendered by the City Attorney; or the complaint had been filed against the Mayor, a member of the City Council or other high level staff member. He added that in certain situations, the City Council would not be obligated to provide outside legal counsel and the Ethics Review Commission could proceed on its own. Chairman Aldrich indicated that he now understood the difference between the sections that showed “shall” versus “may”.

**CITY OF FORT WORTH, TEXAS
ETHICS REVIEW COMMITTEE
CALLED – SPECIAL SESSION
MINUTES**

APRIL 29, 2011

Page 16

**Discussion and Review of Proposed
Amendments to the City's Ethics Code (cont'd)**

(Agenda Item 3)

Deputy City Attorney Vaky continued with the next section, Section 2-249, as follows:

Role of the City Attorney

- Review as to reliance on City Attorney opinion
- Review as to whether complaint alleges conduct that would be a violation of the Ethics Code

He explained that the City Attorney's Office saw the role in two major areas. He stated that following the same practice that was currently in the code, the City Attorney would issue a written statement as to whether the City Attorney believed that the complaint filed was sufficient to state conduct that would be a violation of the Ethics Code. He stated this would be something for the commission to consider and weigh; however, it would not be controlling. He stated this was the current role of the City Attorney and it appeared generally in other cities' ethics codes.

City Attorney Fullenwider indicated that what was different was the responsibility that had been placed on the City Secretary's Office regarding the verification of completeness as to the form of the complaint.

Chairman Aldrich requested further clarification on how this particular section would relate to the fact that the City Attorney's written opinion was a form of defense.

Deputy City Attorney Vaky stated that if the City Attorney notified the commission that the contact was in reliance upon the City Attorney's opinion then the commission would not go through the provisions of paragraph (2) but would move onto paragraph (3) of the subject section.

Committee Member Hernandez referenced the prior issue of written opinions by the City Attorney, he suggested that the City Council Member enter into the record before the vote that they were voting on a particular issue based upon the oral advice that they received from the City Attorney. Deputy City Attorney Vaky indicated that if it was a vote in a Council meeting then that would be required. He added the troublesome areas for example would be when a City Council Member could accept a token gift. In further discussion, Chairman Aldrich suggested that a few facts should be entered into the record regarding what it was and not just a vague statement.

**CITY OF FORT WORTH, TEXAS
ETHICS REVIEW COMMITTEE
CALLED – SPECIAL SESSION
MINUTES
APRIL 29, 2011
Page 17**

**Discussion and Review of Proposed
Amendments to the City's Ethics Code (cont'd)**

(Agenda Item 3)

Deputy City Attorney Vaky began review of the next section, which was Section 2-251(c), Rights of the Person Complained Against, and showed the following slide:

Rights of Parties

- New § 2-251(c) and (d): Person complained against may be represented by another person, but representative of complainant may address the Commission only with permission
 - Modeled generally after Dallas and San Antonio
 - Cross-examination and other rights left to Commission in its rulemaking authority

He explained that in the City's current code, the rights of the complainant or person complained against were not addressed. He added that it was addressed in certain other city codes. He stated that the reason that he brought up this issue was that he noticed differences between the rights of the person complained against and the complainant in a couple of the other codes, i.e., Dallas and San Antonio. He stated that the primary difference was that the person complained against could have a representative there to assist him or her and that representative had the right to address the commission and act as that person's defense counsel whether they were an attorney or just a friend. He added that the complainant had the right to be accompanied by an advisor; however, that advisor was not permitted to address the commission without the commission's consent. He explained that he did not know why that difference was there. He stated obviously that the person complained against was given every deference possible to define themselves. He stated that since this subject was not just in one city, he thought that he would bring this to the committee for input. He added that one overriding issue was one of the powers of the commission was to adopt its own rules so he did not know how specific they needed to be. He added that he felt the direct question would be whether the committee would want the complainant to have the same rights for representation as the person complained against. He pointed out for an example would there be a situation where the commission was going to say that they did not want the complainant's representative to speak to them.

Chairman Aldrich explained that he felt the commission should allow everyone to have their day in court to speak; however, he added that the commission should be able to set certain rules of procedure and time limits for speakers. He added these same rules were then applied equally to both sides. He stated he felt this should cover every contingency that he could think of. He added that he felt through that process every little detail of the code would not have to be addressed.

**CITY OF FORT WORTH, TEXAS
ETHICS REVIEW COMMITTEE
CALLED – SPECIAL SESSION
MINUTES**

APRIL 29, 2011

Page 18

**Discussion and Review of Proposed
Amendments to the City's Ethics Code (cont'd)**

(Agenda Item 3)

There was further discussion on certain processes that were allowed by the City of Dallas that could be placed in rules of procedures rather than spelled out in the Ethics Code. There was discussion on adding in the wording that the commission could set their own rules of procedure.

City Attorney Fullenwider requested clarification was to what was determined for paragraph (d), rights of the complainant. Deputy City Attorney Vaky indicated that the proposed wording would be taken out as follows: "...but such legal counsel or other advisor may not speak on behalf of the complainant except with the permission of the commission."

Chairman Aldrich explained his concern with "other advisor" and what that could entail. He stated that he was not sure that they should be restricted to just having an attorney; however, the City and the commission should be prepared for who the "advisor" might be in various situations. He added again, the speakers could be regulated by time limits.

Deputy City Attorney Vaky continued with his presentation to Section 2-251(f), Ascertaining presence of the parties. He presented a slide showing the following information:

Presence of the Parties

- If complainant does not appear, case dismissed. No appeal. Cannot be refiled unless Commission determines good cause (no appeal)
- If person complained against does not appear, Commission may proceed with hearing
 - Modeled after Texas Ethics Commission rules
 - Verification of receipt of notice

Deputy City Attorney Vaky explained that the presence of the parties had not been addressed. He added that he had reviewed the contents of the Texas Ethics Commission rules. He stated that the City had experienced situations when the complainants have not appeared and what should be done if this were to occur. He stated that he had drafted a provision that the complain would be dismissed if the complainant failed to appear; however, if there was an extenuating circumstance, i.e., car trouble, surgery, illness, then the commission for good cause could allow the complaint to go forward at a subsequent hearing.

Committee Member Lenow expressed concerns that the commission may not know that there was car trouble until the next day, and after the commission had dismissed the complaint. He asked if there could be an associated time limit and he suggested a time line of five (5) days and

**CITY OF FORT WORTH, TEXAS
ETHICS REVIEW COMMITTEE
CALLED – SPECIAL SESSION
MINUTES
APRIL 29, 2011
Page 19**

**Discussion and Review of Proposed
Amendments to the City's Ethics Code (cont'd)**

(Agenda Item 3)

if the commission did not hear from the complainant within that period of time, the complaint would be dismissed. There was considerable discussion about the proposed wording for that section and that the wording needed to stay as written and the commission had the ability by that wording to determine if there was good cause for the complainant to not appear at the hearing. The committee members indicated that if the complaint was filed again, then the complainant would have to explain their "good cause" for not appearing.

The committee discussed the process to be followed by the City Secretary if the complainant filed the complaint again. It was suggested that the complainant had to explain in detail the reason (good cause) that they missed the first hearing when filing the complaint again. Deputy City Attorney Vaky indicated that the commission would have to be reconvened in order to conduct the hearing again and there was no way around that process. Committee Member Roby asked if there was a time limit on that process for resubmitting the complaint based upon good cause. There was discussion for setting the time period of 30 days in which the complainant had to file the complaint, with their indication of good cause.

Deputy City Attorney Vaky pointed out that subparagraph (2) explained that if the person complained against did not appear at the hearing, then the commission may proceed with the hearing in that person's absence. He added that he was now suggesting that the commission receive from the City Secretary's Office some type of notice that the person complained against received some type of notice of the hearing. Chairman Aldrich interjected that there should be some sort of general notice provisions in this code. In further discussions, it was suggested that the notification be by certified mail. Deputy City Attorney Vaky indicated that he would add that provision. City Secretary Hendrix interjected that the current process in her office was to notify all parties by certified mail, regular mail and by e-mail, if an e-mail address was available.

City Attorney Vaky continued his review with the next Section 2-251(g), determining whether the complaint alleged conduct which, based on substantially the same facts asserted in the complaint, the commission had already determined was not a violation of Division 1 of this article. He showed the following information in a slide:

Repeat Claims

- New § 2-251(g) provides that a complaint that asserts conduct which the Commission has already determined is not a violation of the Ethics Code will be dismissed (no appeal)
 - Similar to Dallas

**CITY OF FORT WORTH, TEXAS
ETHICS REVIEW COMMITTEE
CALLED – SPECIAL SESSION
MINUTES
APRIL 29, 2011
Page 20**

**Discussion and Review of Proposed
Amendments to the City's Ethics Code (cont'd)**

(Agenda Item 3)

- Fort Worth currently prohibits consideration of any violation that has previously been considered by the City Council

Deputy City Attorney Vaky reviewed the wording that was currently in the City's Ethics Code. He then reviewed the new wording. Chairman Aldrich recommended changing the wording to "if the commission finds that the complaint alleges conduct which, based on substantially the same facts asserted in the complaint, the commission shall determine that it is not a violation of Division 1 of this article." Deputy City Attorney Vaky indicated this was a good change.

Committee Member Lenow questioned if there was a provision associated with if the commission found one thing and it was appealed to the City Council and the City Council had a reversed their finding. Deputy City Attorney Vaky indicated that this issue might have to be revisited because there was not sufficient time to get into the appeal process at this meeting. He suggested this issue be flagged for further discussion.

Committee Member Lenow also pointed out a wording change needed in the new paragraph (h), determining whether the conduct occurred within two (2) years of the complaint. He stated that in the second line it should read "..... more than two (2) years *prior* (not the word after) to the date on which the complaint was filed,"..... The committee members and staff concurred on this change.

Deputy City Attorney Vaky explained that he had not drafted a provision on frivolous claims. He showed a slide with the following information:

Frivolous Claims

- Texas Ethics Commission has sanctions for frivolous claims
- San Antonio also has sanctions (\$500 fine)
- Omitted from current draft because of enforcement questions and subjective nature

He explained that the City Council had asked about this provision. He stated that there was a provision in the Texas Ethics Commission rules and the City of San Antonio also had a provision for finding a complaint as frivolous and imposed a sanction in the amount of \$500.00. He added that he had really struggled with this particular provision because determining whether a complaint was frivolous or not would be hard to sort out. He stated that he was also concerned about the possibility of a sanction. He stated that the Texas Ethics Commission had statutory

**CITY OF FORT WORTH, TEXAS
ETHICS REVIEW COMMITTEE
CALLED – SPECIAL SESSION
MINUTES
APRIL 29, 2011
Page 21**

**Discussion and Review of Proposed
Amendments to the City's Ethics Code (cont'd)**

(Agenda Item 3)

authority by the Texas State Legislature to impose those sanctions. He added that he was curious as to how the City of San Antonio did it because under the City's authority, he did not see how a city could just hand down the \$500.00 civil penalty. He explained further that he contacted the City of San Antonio and found out that this wording got placed in their code by a referendum for their City Charter Amendment Election. He stated that even their City Attorney indicated that she was not sure how they would be able to do this. He stated that it was obvious that the City wanted to have safe guards for insuring that people were not wrongfully accused. He added that he felt those safe guards were in the document. He added his concern was determining if a complaint was frivolous and then what could be done about it.

City Attorney Fullenwider explained that the City Council Members' concerns were with people that could file complaint after complaint and it took tax payers dollars, staff time and the commission's time to deal with them and process them. In further deliberation, Chairman Aldrich indicated that he felt some of those issues had been dealt with by the proposed changes and what had to be listed in the complaint document.

Committee Member Hernandez spoke to his experience serving on the Texas Ethics Commission and the number of complaints that they received for processing and hearing. He indicated that he could not remember one where the Commission had issued a sanction for a frivolous complaint. Committee Member Lenow pointed out that the City's Ethics Commission had no authority over the private citizens and the ability to fine them. Deputy City Attorney Vaky stated that it was really a policy decision of the City Council since this Ethics Code would be their creation. Committee Member Roby questioned how the sanction would be collected anyway.

Deputy City Attorney Vaky showed the next issue and put the following information before the committee:

Sufficient of Complaint

- New § 2-251(i) provides for dismissal of a complaint if it does not allege a violation of the Ethics Code
 - Avoids evidentiary hearing
 - May be appealed

He went thorough the wording of the paragraph (i) and talked about the commission hearing the testimony and if the commission determined that there were no reasonable grounds to believe

**CITY OF FORT WORTH, TEXAS
ETHICS REVIEW COMMITTEE
CALLED – SPECIAL SESSION
MINUTES
APRIL 29, 2011
Page 22**

**Discussion and Review of Proposed
Amendments to the City's Ethics Code (cont'd)**

(Agenda Item 3)

that a violation of Division 1 occurred, the commission shall dismiss the complaint and adjourn the hearing. He advised that this dismissal would be appealable to the City Council. He added that it was not a huge departure from what currently existed. He indicated that he was interested in hearing what the committee members felt about this section.

There was a brief discussion on this provision. In further discussion, Deputy City Attorney Vaky indicated that it might flow better to switch the two paragraphs shown under paragraph (j). There was also discussion that the provisions written regarding the city attorney's opinion was based upon whether it was a written or verbal opinion and based upon the earlier discussions by the committee, this provision would have to be reworked.

Deputy City Attorney Vaky went to the next provision shown in paragraph (k), Evidentiary Proceeding, and presented a slide with the following information.

Evidentiary Hearing

- Rules of Evidence?
 - San Antonio (relevance, no hearsay unless reliable and useful)
 - Recommendation is to allow Commission to impose its own under its rulemaking authority

Deputy City Attorney Vaky explained that he found in other cities' ethics ordinances various provisions regarding the conduct of the evidentiary proceedings. He stated that it was his recommendation that as part of the rule making authority of the commission, that the commission establish any evidentiary rules. He stated that it had been his experience that the commission would be dealing with lay people and the commission could determine what testimony was credible and what testimony was not. He added the commission could also determine hearsay evidence and discount it to the extent that the commission felt was appropriate. He stated again that he recommended the code remain silent on this issue.

Chairman Aldrich indicated that once the commission got into the process it was more like arbitration than anything else. Committee Member Hernandez indicated that he felt the people making the complaints would just be frustrated if certain strict provisions were outlined in the provisions.

**CITY OF FORT WORTH, TEXAS
ETHICS REVIEW COMMITTEE
CALLED – SPECIAL SESSION
MINUTES
APRIL 29, 2011
Page 23**

**Discussion and Review of Proposed
Amendments to the City's Ethics Code (cont'd)**

(Agenda Item 3)

Deputy City Attorney Vaky then talked about the burden of proof. He reviewed what the City's code currently provided which was "... the commission shall make its determination based on the preponderance of the evidence (the greater weight and degree of the credible evidence and testimony). He pointed out that the Texas Ethics Commission and the Cities of Austin and San Antonio use that same wording. He added that Arlington, Dallas and El Paso required that the finding of a violation must be supported by "clear and convincing" evidence. He questioned whether the provision should be raised to the higher standard.

Chairman Aldrich indicated that his initial response was "no" because the commission would be dealing with lay people and he would hate for their attorney to tell them that now the City fixed this which now required a higher burden of proof. He felt the wording of "clear and convincing" was very hard to figure out. He recommended that the wording not be changed. Deputy City Attorney Vaky indicated that he also felt the need to leave it alone.

Committee Member Roby expressed her concern with the issue that a complainant did not really prove the complaint and the person was sanctioned by the commission and she questioned whether that was a fair approach.

There was further explanation and examples by Chairman Aldrich on the "preponderance of evidence" and the difference in the interpretation of that as compared to "clear and convincing". He added that it was not fair to treat the City Council member or city employee any differently than they would be treated at the court house just because it was an ethics violation.

Deputy City Attorney Vaky then moved onto the discussion of Section 2-252, Sanctions to be imposed or recommended by commission. He presented the following information to the committee:

Sanctions

- Letter of notification if clearly unintentional
- Letter of admonition if minor or may have been unintentional
- Letter of Reprimand if intentional or "thorough disregard" (knowing disregard?) of Ethics Code

Deputy City Attorney Vaky pointed out that the sanctions were a letter of notification, a letter of admonition and a letter of reprimand and he explained the difference in those documents for the

**CITY OF FORT WORTH, TEXAS
ETHICS REVIEW COMMITTEE
CALLED – SPECIAL SESSION
MINUTES
APRIL 29, 2011
Page 24**

**Discussion and Review of Proposed
Amendments to the City's Ethics Code (cont'd)**

(Agenda Item 3)

committee. In discussion on this provision, it was pointed out that the wording should state "thorough disregard of Division 1 of this article." There was discussion that this language was awkward. The committee discussed using "reckless disregard." Deputy City Attorney Vaky indicated that he would look again at this wording.

City Attorney Fullenwider requested to go back and look at subparagraphs (1) regarding the letter of notification and (2) the letter of admonition. She explained that these two subparagraphs were too similar and the wording needed to be changed so that there was a clear distinction between these two sanctions.

In discussion on this wording, Committee Member Lenow suggested that one of the paragraphs stated that the violation was "major and intentional". Chairman Aldrich felt that was a mixing of the metaphors. He pointed out that if the commission was going to go by the level of intent on the culpability factor then minor would only come into play if a person was talking about a misdemeanor or a felony. He questioned, "was it the intent or the offense." Deputy City Attorney Vaky indicated that he would continue to work on this section for clarification.

Deputy City Attorney Vaky indicated that the last area for discussion was the issue of additional recommendations for disciplinary action or censure. He provided the following information:

Additional Recommendations

- Disciplinary Action
 - By City Manager for employees
 - By City Council for appointed employees and board members
- Censure (recommend removal of public official from office)

Deputy City Attorney Vaky indicated this was over and above the other sanctions. He indicated that while the commission would not have the authority to do those additional actions, they could recommend that they be done. He referenced the wording shown in subparagraphs (1) and (2).

Chairman Aldrich commended Mr. Vaky on his work with the code changes. Deputy City Attorney Vaky expressed his appreciation to the committee members for their time in this process. He stated that he would begin making the changes that were discussed today as well as the next set of issues to review which were the appeals process and into the actual Ethics Code itself.

**CITY OF FORT WORTH, TEXAS
ETHICS REVIEW COMMITTEE
CALLED – SPECIAL SESSION
MINUTES
APRIL 29, 2011
Page 25**

**Discussion and Review of Proposed
Amendments to the City's Ethics Code (cont'd)**

(Agenda Item 3)

Committee Member Lenow requested to know the results of the appeal to the City Council of the cases that the committee heard in December of 2010. Deputy City Attorney Vaky indicated that the decisions of the Ethics Review Committee were upheld. Committee Member Lenow added that he knew that there was an accusation against the committee was well. Deputy City Attorney Vaky indicated that accusation went no where. He added that the complainant never said what the ex parte communication included. The committee members indicated that they were never notified of the results of the appeal hearing. Deputy City Attorney Vaky indicated that in the future they should receive notification of the results.

Citizen Comments

(Agenda Item 4)

No one appeared to speak before the committee at this time.

Future Agenda Items

(Agenda Item 5)

There were no future agenda items requested.

Next Meeting – June 9, 2011

(Agenda Item 6)

The meeting of the Ethics Review Committee is scheduled for Thursday, June 9, 2011, in Conference Room 380 on the Third Floor of the Fort Worth Municipal Building.

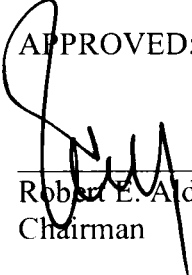
Adjournment

(Agenda Item 7)

With no further presentations and/or discussion, Chairman Aldrich adjourned the called – special meeting of the Ethics Review Committee at 4:09 p.m.

These minutes approved by the City of Fort Worth Ethics Review Committee on the 9th day of June, 2011.

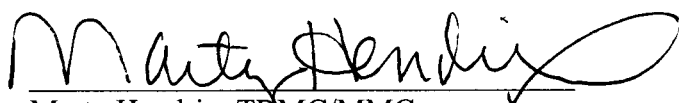
APPROVED:



Robert E. Aldrich, Jr.
Chairman

**CITY OF FORT WORTH, TEXAS
ETHICS REVIEW COMMITTEE
CALLED – SPECIAL SESSION
MINUTES
APRIL 29, 2011
Page 26**

Prepared and respectfully submitted by:

A handwritten signature in black ink, reading "Marty Hendrix". The signature is fluid and cursive, with a large, sweeping loop at the end.

Marty Hendrix, TRMC/MMC
City Secretary